



# LICENCE TO TRANSFORM

SWOT analysis      
of industrial permitting in Europe

February 2024

Final report

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# 1. Foreword

*“Speeding-up permitting is crucial for the renaissance of industry in Europe. It must be a top priority of the 2024-2029 EU agenda.*”

*“Out-of-date, lengthy and overly bureaucratic industrial permitting processes are a strategic bottleneck, hindering companies in their transformation and preventing them from deploying green and digital solutions. Despite some progress lately in the field of renewable energies, the overall situation for industry remains very patchy and a strategic and structured dialogue at EU level is urgently needed.”*

*“Our SWOT analysis provides a strong basis for deepening our common understanding of the nature and scale of these challenges. We expect that our set of recommendations will inspire the next EU political cycle to be fully committed and take firm actions.”*

*“I am grateful to all who contributed to this important work.”*

**Stefan Pan**, Vice-President of BusinessEurope and European delegate at Confindustria

## 2. Objective of the report

### Rationale

- in today's very competitive global scene, 'speed' is of strategic importance
- long and complex industrial permitting challenge EU's competitiveness, resilience and hinder companies in their green and digital transformation
- the reasons for complexity and delays in permitting are manifold, with strong interdependences between EU and national regulatory regimes
- momentum for action at EU level has grown, but situation remains patchy and overall unsatisfactory

### Objective

- deepen the understanding of strengths and weaknesses of industrial permitting in Europe
- understand the situation in major competing markets
- review how industrial permitting is tackled across EU legislations
- develop policy recommendations in view of the 2024-2029 EU cycle

### 3. Methodology



- the project was led by [BusinessEurope](#) and implemented between March and December 2023
- a dedicated BusinessEurope task force was set-up, with participation of experts from Medef, BDI, Confindustria, CEOE, SEV, SN, EK, IV, VBO-FEB, LDDK, NHO, IOGP Europe, Euromines and Cefic. It met four times
- the survey of companies was managed by BusinessEurope
- the gap analysis of permitting across EU legislations was performed by [IOGP Europe](#)
- information about permitting in the US and China was collected by BusinessEurope and IOGP Europe
- the [workshop](#) with the European Commission and national permitting authorities was organised by BusinessEurope

## 4. Survey of companies



- The survey took place from between **May-June 2023**
- **240 companies** replied
- The most represented sectors are **chemicals, cement, steel, power generation, refineries, glass and cutlery**
- 72% are subject to either the Seveso Directive or the Industrial Emissions Directive, or both
- Companies are headquartered in **21 European countries**, incl. 25% are from Italy, 17% from Germany, 8% from Spain, 7% from Sweden and Portugal, 6% from Greece, 5% from France and 4% from the Netherlands.
- **35% of surveyed companies are SMEs** (< 250 employees)

## 4. Survey of companies

For ~ **60%** of companies, the permit-granting process takes **between 1 and 6 years**.

- between 1-3 years for 47% of companies
- between 3-6 years for 12% of companies

### ***Facts:***

- *A typical Austrian cement plant applies for 3-7 permits per year*
- *LNG terminals in Germany need about 20 permits per year*

## 4. Survey of companies



For **83%** of companies, the complexity and duration of permitting is an **obstacle to investing in Europe** (for 53% it is a “*serious problem*”).

### **Quotes:**

- *“it is in contrast with the fast and changing global market conditions”*
- *“it creates uncertainty for investment decisions in the EU and can drive investments outside of the EU”*
- *“it slows down the transformation of industry in the EU”*



## 4. Survey of companies

Out of 16 **challenges** encountered by companies during permit-granting process, the **top 5** (> 75% respondents) are:

1. Response time of public authorities (83% respondents)
2. Understaffed public authorities (80% respondents)
3. Complexity in EU/national legislation (79% respondents)
4. Lack of coordination between different authorities (79% respondents)
5. More than one public authority involved (78% respondents)

**Quote:**

- *“Authorities are sometimes reluctant to take responsibility by granting authorisations and prefer that companies open a dispute”*

## 4. Survey of companies



For **63%** of companies, the **Environmental Impact Assessment (EIA)** is *regularly* delaying the permit-granting process.

**3 main problems** faced by companies during EIA process:

- mandatory deadlines/tacit approval not respected by authorities
- speed of public consultation / stakeholders opposed to project do not constructively engage
- EIA provisions arising from multiple EU/national legislations

## 4. Survey of companies

**Top 10 actions** to simplify and speed-up the permit-granting process (*by % of respondents*) :

1. Time limits for the granting of permits by authorities (86%)
2. Increased communication between companies and authorities (82%)
3. Allowing an early start of projects/constructions (79%)
4. Streamlining judicial/admin. procedures around handling of claims (78%)
5. Tacit approval in the case of a lack of decision by authorities (77%)
6. Digitalisation of the application process (75%)
7. Time limits for public consultations (71%)
8. Time limits for Environmental Impact Assessment (70%)
9. Reduced scope of public consultations (68%)
10. Use of 'overriding public interest' (61%)

## 4. Survey of companies

### Additional proposals to support the permit-granting process in Europe

A public registry about the average time authorities take to process permits

Permitting in industrial parks

Mandatory visit of the companies by the permitting authorities

Financial liabilities for complainants who intentionally delay permitting process

Legal protection of civil servants from possible claims, giving them greater freedom

A penalty for each day that no decision is made up by authorities

## 4. Survey of companies



### Key **takeaways** from the survey

- a strong “**reality check**” on the nature and scale of challenges
- this is a **large-scale issue**: often tens of permits per company are needed per year and the granting time can go up to 5-6 years
- this is an **obstacle to investment** in the EU for **83% of companies**
- this is **primarily a challenge** with **public authorities** (time, coordination, understaffed) and **regulatory framework** (complexity and uncertainty)
- the **Environmental Impact Assessment** is regularly delaying the permit-granting process
- No silver bullet solution, but **a range of coordinated actions needed**

## 5. Benchmarking: EU vs. major competitors



- With the United States of America
  - According to [government data](#), it takes an average of 4.5 years for a project to obtain a federal permit (~ 7 years for roads or bridges)
  - Proceedings under National Environment Policy Act (NEPA) can take up to 5 years
  - **On-going permitting reform in the US includes update to NEPA (June 2023)**
    - 2 years' time limits for environmental impact statements
    - 1 year for more “modest” environmental assessments
  - **Other differences with EU permitting process include**
    - Public consultation in the US is not always mandatory, but subject to a Federal Agency decision
    - There is a pre-application consultation (between authorities and operators) in the US, which can help with fast-tracking the process

## 5. Benchmarking: EU vs. major competitors



- With the People's Republic of China (PRC)
  - Example of relevant laws: Pollutant Discharge Permit System, Air Pollution Prevention and Control Act, Environmental Protection Law, etc.
  - **Environmental Impact Assessment Law of the People's Republic of China**
    - Preparation and submission of an EIA report for large-scale energy production projects, categorised by their potential environmental impacts
    - The examination and approval department shall, within 60 days from the date it receives an EIA report, make a decision
  - **Some differences with the EU permitting process include**
    - Public consultation in the PRC is not always mandatory and is at the discretion of Local Regulations (supplementing National Laws)
    - There is a pre-application consultation (between authorities and operators) in the PRC, which can help with fast-tracking the process

# 6. Gap analysis of permitting across EU legislations

## Methodology

### 13 EU Regulations reviewed

1. Industrial Emissions Directive
2. Environmental Impact Assessment Directive
3. Net Zero Industry Act (*not finalised yet*)
4. Greenhouse Gas Emissions Allowance Directive
5. Renewable Energy Directive
6. Soil health Law
7. Public access to environmental information Directive
8. Management of waste from extractive industries Directive
9. Ambient Air Quality Directive
10. Critical Raw Materials Act
11. Waste Framework Directive
12. Geological storage of carbon dioxide Directive
13. Water Framework Directive



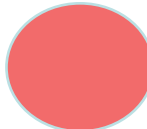
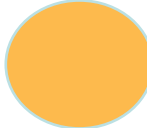
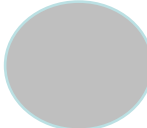
### 13 parameters analysed

1. Requirements
2. Permit level
3. Obligations for operators
4. Obligations for Member States authorities
5. Level of the MS authorities responsible
6. Permit format
7. Permit conditions
8. Public information
9. Public consultation
10. Permitting periods
11. Duration of the permit-granted process
12. Exceptions
13. Tacit approval of a permit



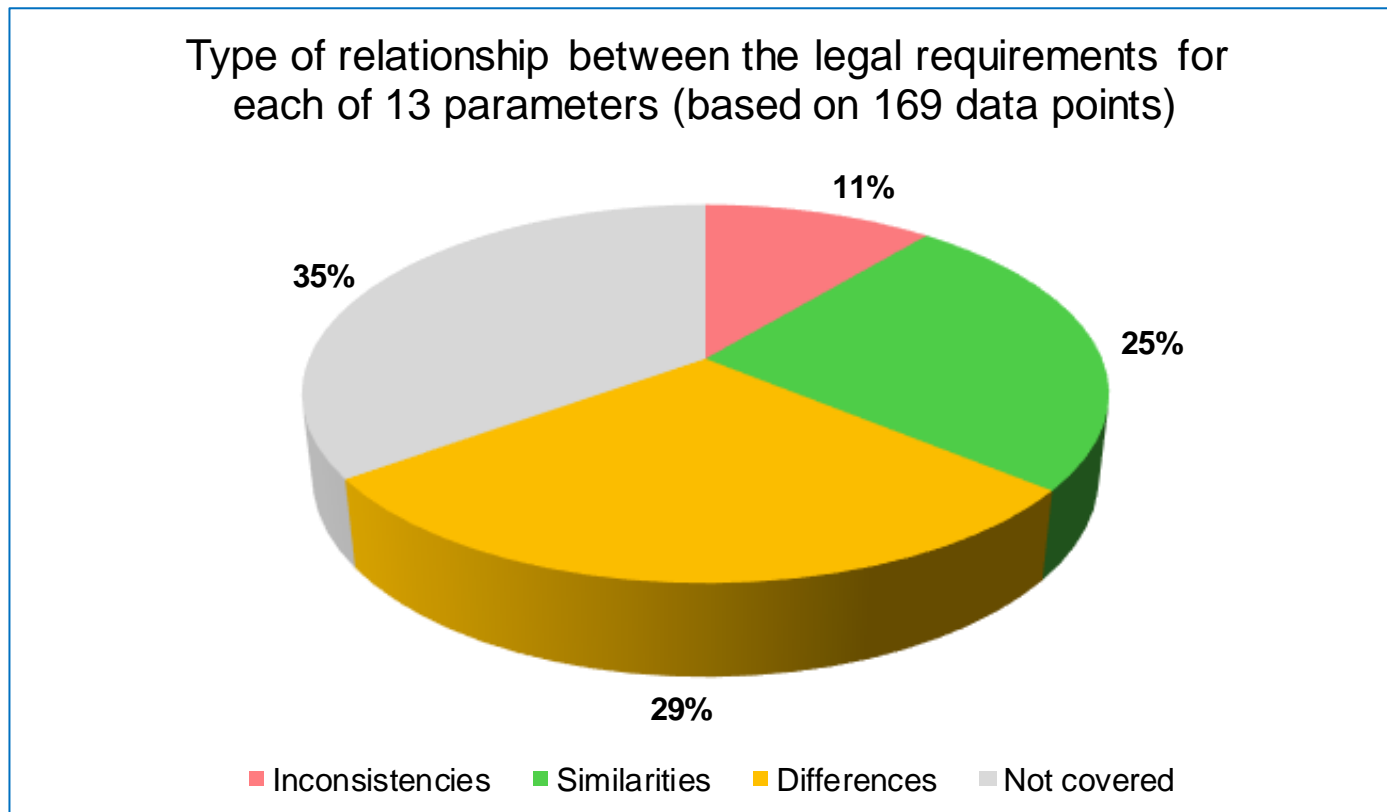
## 6. Gap analysis of permitting across EU legislations

### 5 analysis criteria

-  **Scope** of the EU regulation
-  Identification of **similarities** between legislative requirements
-  Identification of **clear inconsistencies** between legislative requirements
-  Identification of **differences** between legislative requirements
-  **Not covered** / not applicable / missing points





## 6. Gap analysis of permitting across EU legislations

Key result → a significant level of inconsistencies and differences between EU legislations



## 6. Gap analysis of permitting across EU legislations

### Background about the methodology

- 13 EU legislations have been reviewed, based on input received from industrial project developers applying for an industrial permit. They consist of legislation that is part of the process of obtaining an industrial permit
- Multiple parameters were considered due to the different scope of each law
- Not all legislation covers requirements related to the permit application process, but they are part of the permit process (e.g., certificate to be attached to the list of accompanying documents when applying for the permit)
- To address the above, different colours were used and given to each provision requirement by each legislation
  -  Recognised similarities and coherences between the requirements for each parameter for each legislation
  -  Clear inconsistency between the requirements demanded for each parameter by each legislation
  -  Differences identified between the requirements demanded for each parameters by each legislation: in some cases, the requirement stated in the provision is not covered or is different from the other legislations, but it does not represent an inconsistency given that they are aligned on the basis of the same parameter. This is explained by the different scope of application
  -  Not covered / not applicable / missing points
- Access to the full analysis performed by [IOGP Europe](#) is available upon request

## 7. Workshop with competent authorities

Took place on 31 October 2023

With European Commission, Greek and Swedish permitting authorities' representatives (agenda [here](#))



Key take aways at EU level:

- some national specificities exist, but most challenges are common
- between 5 to 10 different authorities can be involved in permitting process
- more dialogue / exchanges of information at EU level would be beneficial

## 7. Workshop with competent authorities



### Experiences from Greece:



- comprehensive licensing reform in 2016 and on-going simplification for groups of economic activities because of excessive complexity
- successfully moved from a 6-month permitting process to 10 days in some cases
- key pillars of the reform
  - implementation of a risk-based approach i.e. can benefit from simplified process if not categorised as ‘high risk’
  - moved from ex-ante to ex-post inspections i.e. no need to wait for all approvals before starting operations
  - ‘industrial parks’ get the permits, not individual industrial projects in the parks

## 7. Workshop with competent authorities

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### Experiences from Sweden:

- 3 out of 4 permit applications lead to permits
- key challenges
  - average permitting duration between 1 and 1,5 years
  - incomplete application by projects developers
  - not sufficient competences available
- looking ahead
  - strengthening the dialogue / more engagement by competent authorities
  - new Swedish government inquiry



## 8. Conclusions and recommendations

### Key conclusions

- In today's very competitive global environment, long and complicated permitting is one of the biggest obstacles to the competitiveness and transformation of EU industry
- Momentum for action at EU level has grown, and concrete policy measures have recently been adopted (e.g. Net-Zero Industry Act, Critical Raw Materials Act)
- However, the SWOT analysis performed through this report shows that
  - recent EU measures remain limited in scope, while all industry and their infrastructures need their 'licence to transform' at speed, and it is still to be seen if they fully address all challenges and contain the right level of ambition
  - our main competitors, such as the US and China, also face challenges. However, they have specific provisions (e.g. time limits) to help address some of these difficulties. The on-going reform of permitting in the US could also give them a significant advantage
  - permits-related provisions are spread across many EU legislations, are piecemeal and duplicative, and with a significant level of inconsistencies
- There is no silver bullet, but a range of coordinated actions needed, without huge financing requirements
- While still being very nationally-driven, permitting can become a true European flagship project

## 8. Conclusions and recommendations

### Our 5 key recommendations 2024-2029 EU cycle

- ✓ as a key driver of competitiveness, the issue of industrial permitting must be top of the political agenda of the next mandate
- ✓ a harmonised European approach of permitting, across the whole industrial and infrastructure ecosystem, must be achieved
- ✓ a structured dialogue and exchange of best practices between the European Commission, national permitting authorities and industry must be established at EU level
- ✓ in the first 3 months of its mandate, the European Commission should set-up a high-level expert group, tasked to deliver within 12 months a set of '*next level*' recommendations to reform industrial permitting across the EU
- ✓ a simple set of KPIs must be developed to measure progress over time



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